

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 127, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 3, delete "," and insert "**or (c),**".
- 2 Page 2, line 4, reset in roman "or makes an expenditure".
- 3 Page 2, between lines 5 and 6, begin a new paragraph and insert:
- 4 "**(c) A group of individuals all of whom are related by blood,**
- 5 **marriage, or adoption is not considered a political action**
- 6 **committee.**
- 7 **(d) For purposes of subsection (c), an individual is considered to**
- 8 **be related to another individual by blood, marriage, or adoption if**
- 9 **the individual is the spouse, parent, father-in-law, mother-in-law,**
- 10 **child, son-in-law, daughter-in-law, grandparent, grandchild,**
- 11 **brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew,**
- 12 **or niece of the other individual as the result of birth, marriage, or**
- 13 **adoption."**
- 14 Page 4, line 19, after "An" insert "**individual or**".
- 15 Page 4, line 19, delete "may not make" and insert "**that makes an**
- 16 **expenditure for the purpose of financing**".
- 17 Page 4, line 20, delete "unless:" and insert "**is required to report**
- 18 **the expenditure in accordance with IC 3-9-8."**
- 19 Page 4, delete lines 21 through 28, begin a new paragraph and insert:
- 20 "**SECTION 3. IC 3-9-4-16, AS AMENDED BY P.L.221-2005,**
- 21 **SECTION 20, IS AMENDED TO READ AS FOLLOWS**

[EFFECTIVE JANUARY 1, 2007]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5 **or IC 3-9-8.**

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the

1 amended report or statement of organization not later than noon five (5)
2 days after being given notice under section 14 of this chapter, the
3 commission may assess a civil penalty. The penalty is ten dollars (\$10)
4 for each day the report is late after the expiration of the five (5) day
5 period, not to exceed one hundred dollars (\$100) plus any investigative
6 costs incurred and documented by the election division. The civil
7 penalty limit under this subsection applies to each report separately.

8 (c) This subsection applies to a person who is subject to a civil
9 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
10 statement. If the commission determines that a person failed to file the
11 report or statement of organization by the deadline prescribed under this
12 article, the commission shall assess a civil penalty. The penalty is fifty
13 dollars (\$50) for each day the report or statement is late, with the
14 afternoon of the final date for filing the report or statement being
15 calculated as the first day. The civil penalty under this subsection may
16 not exceed one thousand dollars (\$1,000) plus any investigative costs
17 incurred and documented by the election division. The civil penalty
18 limit under this subsection applies to each report separately.

19 (d) This subsection applies to a person who is subject to a civil
20 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
21 (a)(10). If the commission determines that a person is subject to a civil
22 penalty under subsection (a), the commission may assess a civil penalty
23 of not more than one thousand dollars (\$1,000), plus any investigative
24 costs incurred and documented by the election division.

25 (e) This subsection applies to a person who is subject to a civil
26 penalty under subsection (a)(5). If the commission determines that a
27 person is subject to a civil penalty under subsection (a)(5), the
28 commission may assess a civil penalty of not more than three (3) times
29 the amount of the contribution in excess of the limit prescribed by
30 IC 3-9-2-4, plus any investigative costs incurred and documented by the
31 election division.

32 (f) This subsection applies to a person who is subject to a civil
33 penalty under subsection (a)(11). If the commission determines that a
34 candidate or the candidate's committee has violated IC 3-9-2-12, the
35 commission shall assess a civil penalty equal to the greater of the
36 following, plus any investigative costs incurred and documented by the
37 election division:

- 38 (1) Two (2) times the amount of any contributions received.

1 (2) One thousand dollars (\$1,000).

2 (g) This subsection applies to a person who is subject to a civil
3 penalty under subsection (a)(12). If the commission determines that a
4 corporation or a labor organization has failed to designate a
5 contribution in violation of IC 3-9-2-5(c), the commission shall assess
6 a civil penalty equal to the greater of the following, plus any
7 investigative costs incurred and documented by the election division:

8 (1) Two (2) times the amount of the contributions undesignated.

9 (2) One thousand dollars (\$1,000).

10 (h) This subsection applies to a person who is subject to a civil
11 penalty under subsection (a)(13). If the commission determines, by
12 unanimous vote of the entire membership of the commission, that a
13 person has violated IC 3-9-3-5, the commission may assess a civil
14 penalty of not more than five hundred dollars (\$500), plus any
15 investigative costs incurred and documented by the election division.

16 (i) This subsection applies to a person who is subject to a civil
17 penalty under subsection (a)(14). If the commission determines, by
18 unanimous vote of the entire membership of the commission, that a
19 person has served as the treasurer of a committee in violation of any of
20 the statutes listed in subsection (a)(14), the commission may assess a
21 civil penalty of not more than five hundred dollars (\$500), plus any
22 investigative costs incurred and documented by the election division.

23 (j) This subsection applies to a person who is subject to a civil
24 penalty under subsection (a)(15). The commission may assess a civil
25 penalty equal to the costs incurred by the election division for the
26 manual entry of the data contained in the report or statement, plus any
27 investigative costs incurred and documented by the election division.

28 (k) All civil penalties collected under this section shall be deposited
29 with the treasurer of state in the campaign finance enforcement account.

30 (l) Proceedings of the commission under this section are subject to
31 IC 4-21.5.

32 SECTION 4. IC 3-9-4-17 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) In addition
34 to any other penalty imposed, a person who does any of the following
35 is subject to a civil penalty under this section:

36 (1) Fails to file with a county election board a report in the manner
37 required under IC 3-9-5 or **IC 3-9-8.**

38 (2) Fails to file a statement of organization required under

- 1 IC 3-9-1.
- 2 (3) Is a committee or a member of a committee who disburses or
- 3 expends money or other property for any political purpose before
- 4 the money or other property has passed through the hands of the
- 5 treasurer of the committee.
- 6 (4) Makes a contribution other than to a committee subject to this
- 7 article or to a person authorized by law or a committee to receive
- 8 contributions in the committee's behalf.
- 9 (5) Is a corporation or labor organization that exceeds any of the
- 10 limitations on contributions prescribed by IC 3-9-2-4.
- 11 (6) Makes a contribution in the name of another person.
- 12 (7) Accepts a contribution made by one (1) person in the name of
- 13 another person.
- 14 (8) Is not the treasurer of a committee subject to this article, and
- 15 pays any expenses of an election or a caucus except as authorized
- 16 by this article.
- 17 (9) Commingles the funds of a committee with the personal funds
- 18 of an officer, a member, or an associate of the committee.
- 19 (10) Wrongfully uses campaign contributions in violation of
- 20 IC 3-9-3-4.
- 21 (11) Fails to designate a contribution as required by IC 3-9-2-5(c).
- 22 (12) Violates IC 3-9-3-5.
- 23 (13) Serves as a treasurer of a committee in violation of any of the
- 24 following:
- 25 (A) IC 3-9-1-13(1).
- 26 (B) IC 3-9-1-13(2).
- 27 (C) IC 3-9-1-18.
- 28 (b) This subsection applies to a person who is subject to a civil
- 29 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
- 30 statement. If the county election board determines that a person failed
- 31 to file the report or a statement of organization not later than noon five
- 32 (5) days after being given notice under section 14 of this chapter, the
- 33 county election board may assess a civil penalty. The penalty is ten
- 34 dollars (\$10) for each day the report is late after the expiration of the
- 35 five (5) day period, not to exceed one hundred dollars (\$100) plus any
- 36 investigative costs incurred and documented by the board. The civil
- 37 penalty limit under this subsection applies to each report separately.
- 38 (c) This subsection applies to a person who is subject to a civil

penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil

penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

(j) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

(k) Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 5. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 8. Reports Required for Certain Campaign Expenditures

Sec. 1. Except as provided in section 2 of this chapter, this chapter applies to an individual or an organization:

(1) that makes a large expenditure; or

(2) on whose behalf a large expenditure was made;

for the purpose of financing express advocacy communications through a newspaper, a magazine, an outdoor advertising facility, a poster, a yard sign, a direct mailing, or any other type of general public political advertising.

Sec. 2. (a) This chapter does not apply to the following:

(1) Candidate's committees.

(2) Regular party committees.

(3) Political action committees.

(4) A legislative caucus committee.

(5) An auxiliary party organization.

(b) This chapter does not apply to:

(1) a membership organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue

Code, to the extent that the organization's express advocacy communications are made solely to the organization's members; or

(2) an individual who makes an expenditure using only the individual's own resources.

Sec. 3. (a) As used in this chapter, "express advocacy communication" means a communication that expressly advocates the election or defeat of a clearly identified candidate.

(b) For the purposes of subsection (a), a candidate is clearly identified if any of the following apply:

(1) The name of the candidate involved appears.

(2) A photograph or drawing of the candidate appears.

(3) The identity of the candidate is apparent by unambiguous reference.

Sec. 4. As used in this chapter, "large expenditure" means:

(1) a single expenditure of at least ten thousand dollars (\$10,000); or

(2) an aggregate of expenditures that totals at least ten thousand dollars (\$10,000).

Sec. 5. (a) An individual or organization that makes a large expenditure described in section 1 of this chapter shall file a report, in a form prescribed by the commission, with:

(1) the election division, if the express advocacy communication is attempting to influence the election of a candidate for state or legislative office; or

(2) the county election board of each county comprising part of the affected election district, if the express advocacy communication is attempting to influence the election of a candidate for local or school board office.

(b) The report required under subsection (a) must be filed not later than forty-eight (48) hours after an expenditure that constitutes a large expenditure under this chapter is made.

Sec. 6. A report required by section 5 of this chapter must contain the following information for each expenditure reported:

(1) The full name, the full mailing address, the occupation, and the principal place of business, if any, of the person making the expenditure.

(2) The full name, the full mailing address, the occupation,

- 1 **and the principal place of business, if any, of each person to**
 2 **whom the expenditure was made.**
 3 **(3) The total amount of the expenditure.**
 4 **(4) The date and time the expenditure was made.**
 5 **(5) The name of and the office sought by the candidate who is**
 6 **the subject of the communication financed by the expenditure.**
 7 **(6) The full name, the full mailing address, the occupation,**
 8 **and the principal place of business of each person who**
 9 **contributed or paid at least one hundred dollars (\$100) of the**
 10 **expenditure.**
 11 **(7) The full name and the full mailing address of the person**
 12 **filing the report.**
 13 **Sec. 7. Except where a provision conflicts with this chapter or**
 14 **cannot be practicably applied, IC 3-9-4 governs a report filed**
 15 **under this chapter."**
 16 Renumber all SECTIONS consecutively.
 (Reference is to SB 127 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

Lawson C

Chairperson